
**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION**

LARRY KIRKBRIDE,

Plaintiff,

v.

TEREX USA, LLC, TEREX
CORPORATION, and DOES 1
THROUGH 5,

Defendants.

**MEMORANDUM DECISION AND
ORDER GRANTING IN PART AND
DENYING IN PART TEREX USA, LLC's
MOTION TO EXCLUDE FROM
EVIDENCE THE NEW EXHIBITS
IDENTIFIED IN PLAINTIFF'S UPDATED
RULE 26(a)(3)(A)(iii) PRETRIAL
EXHIBIT DISCLOSURES
(ECF No. 172)**

Case No. 2:10-cv-660-TC-EJF

District Judge Tena Campbell

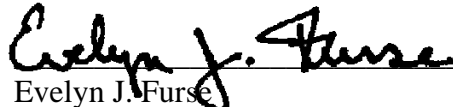
Magistrate Judge Evelyn J. Furse

The Court GRANTS in part and DENIES in part Terex USA, LLC's (Terex) Motion to Exclude from Evidence the New Exhibits Identified in Plaintiff's Updated Rule 26(a)(3)(A)(iii) Pretrial Exhibit Disclosures based on the likelihood of prejudice from the disclosure.

Because both parties have modestly supplemented their exhibit lists with documents previously exchanged after the date for exhibit list designations the Court will allow the supplementations made by both parties to date with the exception of Photographs 1 through 228 taken by Ben Railsback. The Court does not anticipate Mr. Kirkbride offering 228 photographs into evidence. Asking Terex to review 228 photographs for objections this close to trial is unduly burdensome. The Court grants Mr. Kirkbride leave to designate from among the 228 photographs those it anticipates it may use at trial by 11:59 p.m. on September 12, 2013.

DATED this 11th day of September, 2013.

BY THE COURT:



Evelyn J. Furse
United States Magistrate Judge